RECENT JURISPRUDENCE ON REMEDIAL LAW*

INTRODUCTION

The article is a survey of recent cases decided by the Supreme Court across three sub-fields of remedial law: alternative dispute resolution, civil procedure, and criminal procedure. All these cases were decided in 2021 and 2022.

Part I illustrates the applicability of rules of court provisions on the compulsory joinder of indispensable parties to alternative dispute resolution proceedings. Part II discusses cases concerning the absence of a provision for the provisional dismissal of civil cases, the Court of Appeals' lack of power to cite lower court judges or officials in contempt, the applicability of the 2019 Amendments to the Rules of Court to cases commenced prior to its effectivity, and the distinction between the remedies of annulment of judgment and *certiorari*. Finally, Part III clarifies the venue requirement for libel cases arising from radio and television broadcasts.

I. ALTERNATIVE DISPUTE RESOLUTION PROCEEDINGS

A. *Federal Express Corporation v. Airfreight 2100, Inc.*[1]

The Rules of Court provisions on compulsory joinder of indispensable parties are not merely matters of procedure—they are fundamental rules designed to protect the right to due process of persons.[2]

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This Article is part of a series published by the JOURNAL, providing updates in jurisprudence across the eight identified fields of the law. The other articles focus on political law, labor law, civil law, taxation, criminal law, mercantile law, and judicial ethics.

[1] [Hereinafter "*FedEx*"], G.R. No. 225050, Sept. 14, 2021.

[2] *Id.* at 18, *citing* Bulawan v. Aquende, G.R. No. 182819, 652 SCRA 585, 598–99, June 22, 2011. This pinpoint citation refers to the copy of this decision uploaded to the Supreme Court Website.

Hence, such provisions may be applied even to Alternative Dispute Resolution (ADR) proceedings governed by special rules.

An arbitral tribunal was formed in relation to several disputes arising from contracts entered into between Federal Express Corporation ("FedEx") and Airfreight 2100, Inc. ("AF2100"), including the question of whether AF2100 may withhold amounts due to FedEx after AF2100 paid Value Added Tax (VAT) on behalf of FedEx.[3] FedEx prayed that AF2100 be ordered to produce a number of requested documents, such as the tax returns of AF2100 and receipts of the creditable input VAT of AF2100 which it allegedly applied to its VAT liabilities.[4] In line with this, FedEx filed a Petition for Assistance in Taking Evidence under Rule 9.5 of the Special Rules of Court on Alternative Dispute Resolution ("Special ADR Rules") before the Regional Trial Court, seeking the issuance of a subpoena against the Commissioner of Internal Revenue (CIR) for the production of the said requested documents.[5] Notably, AF2100 was not impleaded by FedEx as a party to the case.

The RTC granted the petition and ordered the CIR to allow FedEx to examine and reproduce the requested documents, issuing a Writ of Execution to that effect.[6] Meanwhile, AF2100 filed a motion for intervention, claiming that despite being an indispensable party, it was neither impleaded nor informed of the petition, and thus, the entire proceedings must be nullified for violating its right to due process.[7] However, the RTC denied the motion and held that AF2100 was not an indispensable party, since a petition under Rule 9.5 of the Special ADR Rules is available when a party to an arbitration proceeding requires assistance in taking of evidence from a person or entity other than a party therein.[8] In this

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[3] *FedEx*, *supra* note 1, at 2.

[4] *Id.*

[5] *Id.* at 6.

[6] *Id.* at 7.

[7] *Id.* at 8.

[8] COURT RULES ON ADR, Rule 9.5. "A party requiring assistance in the taking of evidence may petition the court to direct any person, including a representative of a corporation, association, partnership or other entity (other than a party to the ADR proceedings or its officers) found in the Philippines, for any of the following:

a. To comply with a subpoena *ad testificandum* and/or subpoena *duces tecum*;
b. To appear as a witness before an officer for the taking of his deposition upon oral examination or by written interrogatories;
c. To allow the physical examination of the condition of persons, or the inspection of things or premises and, when appropriate, to allow the

case, the non-party in the arbitration proceeding was the CIR, who had custody of the requested documents, and thus it is the indispensable party. On appeal, the Court of Appeals set aside the decision of the RTC, finding that AF2100 was an indispensable party who should have been impleaded in the case.[9]

In ruling that AF2100 was an indispensable party whose motion for intervention must be granted, the Court rejected the claim of FedEx that the provisions of the Rules of Court on compulsory joinder of parties and motion for intervention cannot be applied because they were not contained or referred to in the Special ADR Rules:

> The Special ADR Rules may not have explicitly incorporated or referred to the provisions of Rule 3 of the Rules of Court on Parties to Civil Actions, but the provisions thereof are so general that they may find application in civil actions and, as far as practicable, also in special proceedings that are filed in courts. The requirement imposed by Rule 3, Sec. 7 on compulsory joinder of indispensable parties goes beyond rules of procedure. It is a basic imposition intended to protect a person's right [to] not be deprived of property without due process of law, guaranteed by no less than the Constitution.[10]

Furthermore, Rule 1.6 of the Special ADR Rules expressly enumerates the prohibited submissions in cases governed by the said Rules. Using the legal maxim *expressio unius est exclusio alterius*, the Court held that since a motion for intervention is not expressly prohibited, it is deemed allowed.[11]

Therefore, although ordinarily, a motion for intervention must be filed before the court renders judgment, the exceptional circumstances in this case warranted the granting of AF2100's motion for intervention, notwithstanding the trial court's final and executory judgment and issuance

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recording and/or documentation of condition of persons, things or premises (i.e., photographs, video and other means of recording/documentation);

d. To allow the examination and copying of documents; and

e. To perform any similar acts."

[9] *FedEx*, *supra* note 1, at 10.

[10] *Id.* at 18. (Citation omitted.)

[11] *Id.* at 18–19.

of a writ of execution. As an indispensable party, AF2100 ought to be informed of all prior proceedings in the petition of FedEx.

II. CIVIL PROCEDURE

A. *Philippine National Bank v. Daradar*[12]

In the case of *Philippine National Bank v. Daradar*, the Supreme Court had the opportunity to clarify that there is no concept of *provisional dismissal of a civil case* under Philippine laws. This concept is used only to refer to the temporary dismissal of a criminal action which may accordingly be revived subject to the conditions set forth under the Rules of Court.

In this case, Philippine National Bank ("PNB") and respondent Romeo Daradar entered into a Deed of Promise to Sell ("Deed") covering two parcels of land and improvements. Respondent Daradar however failed to pay the annual amortizations and interest as they fell due, which triggered the bank to rescind the said Deed.[13] Seeking to annul the notarial rescission, respondent thus filed a civil action for Annulment of Rescission, Accounting and Damages against PNB in the Regional Trial Court ("RTC") of Iloilo City. The RTC rendered an Order ("First Order") *provisionally* dismissing the civil case filed by the respondent because of his failure to appear at the scheduled hearing.[14] After four years since the promulgation of that Order, the RTC *motu proprio* issued a second Order ("Second Order") finally dismissing the civil case because of the failure of respondent to prosecute the case pursuant to Section 3, Rule 17 of the 1997 Rules of Court.[15]

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[12] [Hereinafter "*Daradar*"], G.R. No. 180203, June 28, 2021.

[13] *Id.* at 2. This pinpoint citation refers to the copy of this decision uploaded to the Supreme Court website.

[14] *Id.* (Emphasis supplied).

[15] 1997 RULES OF COURT, Rule 17, § 3 states:

SECTION 3. Dismissal due to fault of plaintiff. — If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.

A few months after, respondent filed another civil complaint, this time, a declaration of nullity of notarial rescission of the Deed before the same court.[16] PNB moved to dismiss the said complaint invoking the Second Order previously issued, which was, according to the bank, an adjudication of the merits already, thereby barring the institution of the action by virtue of the *res judicata* rule.[17] The RTC assented to the argument by PNB, so respondent Daradar elevated the case to the Court of Appeals, which ruled in his favor.[18] According to the appellate court, the First Order divested the trial court of jurisdiction over the case; therefore, the Second Order, which was essentially based on it, was null and void for lack of jurisdiction.[19] PNB thereafter appealed this decision before the Supreme Court.

The Supreme Court explained that in the Philippine jurisdiction, there is no provisional dismissal of a civil case. Provisional dismissal, as a concept under Philippine laws, refers to "the temporary dismissal of a *criminal* action that may be revived within the period set by the Rules of Court upon compliance with certain requisites."[20] In fact, even the 2019 Amendments to the Rules of Civil Procedure do not provide for the provisional dismissal of a civil case. That being the case, the First Order issued by the RTC was void and without legal effect for lack of basis.[21]

However, the Supreme Court, invoking a 1940 case,[22] treated the First Order as interlocutory because it did not completely dispose of the case and did not definitively adjudicate with finality the rights and obligations of the bank and the respondent.[23] Therefore, the First Order still could not have stripped the trial court of its jurisdiction to rule on the case, contrary to the finding of the CA.[24] The trial court was therefore acting within its jurisdiction when it issued the Second Order, and when it ultimately dismissed respondent's civil action on the ground of failure to prosecute.[25]

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[16] *Daradar*, *supra* note 12, at 2.

[17] *Id.*

[18] *Id.* at 3.

[19] *Id.*

[20] *Id.* at 5.

[21] *Id.*

[22] *Id.*, *citing* Cu Unjieng e Hijos v. The Mabalacat Sugar Co., 70 Phil. 380, 383–385 (1940).

[23] *Id.* at 6.

[24] *Id.*

[25] *Id.*

Furthermore, according to the Supreme Court, since the Second Order has become final already, it may no longer be made susceptible to change, revision, amendment, or reversal, except for certain circumstances, pursuant to the doctrine of immutability of judgements.[26] But more importantly, since it has attained finality, the legal implication is that it has operated as an adjudication of the merits already.[27] Respondent's action was therefore barred on the ground of *res judicata*.

B. *Fider-Reyes v. Everglory Metal Trading Corporation*[28]

The case of *Fider-Reyes v. Everglory Metal Trading Corporation* elucidates that the power of the Supreme Court to discipline judges of lower courts is not shared with other tribunals, pursuant to the Constitution and other supporting laws. By virtue of that exclusive power therefore, the Court of Appeals is not allowed to punish a lower court judge, or even the personnel of that court by extension, for contempt.

In this case, Jose Rey Batomalaque, the president of Colorsteel Systems Corporation ("Colorsteel"), was the registered owner of three patents for specific designs of a tile roofing panel.[29] However, respondent Everglory Metal Trading Corporation ("Everglory") developed an exact copy of the product without the notice and consent of Batomalaque. This prompted Colorsteel to send a letter demanding that Everglory cease and desist from the manufacturing and selling of the said tile roofing panels. Colorsteel thereafter filed a complaint for patent infringement with application for preliminary injunction as Everglory appeared to have brushed off its demand.[30]

Petitioner Judge Amifaith Fider-Reyes, who handled the initiated infringement case at the trial court level, ordered the expunction from the records of several submissions by Everglory, terminating in effect the hearing on the application for preliminary injunction.[31] Aggrieved, Everglory sought a Temporary Restraining Order ("TRO") which was granted by the

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[26] *Id.* at 6–7.

[27] *Id.* at 8.

[28] [Hereinafter *"Fider-Reyes"*], G.R. No. 238709, Oct. 6, 2021.

[29] *Id.* at 2. This pinpoint citation refers to the copy of this decision uploaded to the Supreme Court website.

[30] *Id.*

[31] *Id.*

Court of Appeals.[32] Before the TRO's expiration, the Court of Appeals rendered a decision reversing and setting aside the order of expunction by petitioner.[33] Despite this decision however, petitioner still continued with the summary proceedings in the infringement case, where she finally ruled in favor of Colorsteel and Batomalaque.[34]

Because of this seeming defiance by petitioner judge, Everglory initiated an indirect contempt case against her.

The Court of Appeals found petitioner guilty of indirect contempt of court and imposed a fine of PHP 10,000.00, ratiocinating that as a matter of judicial courtesy, she should have suspended the proceedings even without an injunctive writ.[35] Petitioner thus elevated the matter to the Supreme Court, arguing chiefly that the Court of Appeals was devoid of jurisdiction to take cognizance of a contempt case against a trial court judge.

The Supreme Court ruled that it holds the exclusive power to discipline judges of lower courts and that the Court of Appeals cannot adjudge petitioner guilty of indirect contempt of court.[36] This exclusive power is ingrained in several sources of law: (1) Section 11, Article VIII of the Constitution[37]; (2) Rule 4, Section 3(a) of the Internal Rules of the Supreme Court[38]; and (3) the whereas clauses of A.M. No. 18-01-05-SC, prescribing rules of procedure for punishing judicial misconduct,[39] which provide:

> WHEREAS, under Section 6, Article VIII of the 1987 Constitution, the Supreme Court has administrative supervision over all courts and the personnel thereof;

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[32] *Id.* at 3.

[33] *Id.*

[34] *Id.* at 4.

[35] *Id.* at 5.

[36] *Id.* at 10.

[37] SECTION 11. [...] The Supreme Court *en banc* shall have the power to discipline judges of lower courts, or order their dismissal by a vote of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon.

[38] SECTION 3. *Administrative functions of the Court.* — The administrative functions of the Court *en banc* consist of, but are not limited to, the following:

> (a) the discipline of justices, judges and court personnel, whether by *en banc* or by Division, subject to matters assignable to the Divisions, disciplinary matters involving justices, judges and court personnel[.]

[39] *Fider-Reyes*, *supra* note 28, at 9–10.

> WHEREAS, under Section 11, Article VIII of the 1987 Constitution, the Supreme Court *en banc* has the power to discipline judges of lower courts, or order their dismissal by a vote of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon.
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> WHEREAS, Section 5(5), Article VIII of the 1987 Constitution vests upon the Supreme Court the power to promulgate rules concerning the pleading, practice, and procedure in all courts[.][40]

Thus, this authority being exclusive, what the Court of Appeals can do at most is to recommend to the Supreme Court the necessary disciplinary action—but it cannot enforce the punishment by itself.

The Supreme Court further cautioned that the filing of indirect contempt cases against judges, as what Everglory did here, will effectively contribute to the delay in the administration of justice, as this would encourage litigants to file cases against judges challenging the exercise of their discretion and imputing errors of law.[41] To countenance this would render the long-entrenched presumption of good faith in the performance of one's official duties patently nugatory. In fact, the Supreme Court noted that there is no existing precedent in the Philippine jurisdiction for a litigant to filean indirect contempt case against a lower court judge whoallegedly disobeys the orders of an appellate court.[42]

If the judges indeed rendered wrong and unfounded decisions, the Supreme Court stressed that litigants may still make use of other recourses without contravening existing laws, such as availing themselves of the judicial remedies of *certiorari*, or appeal. In Everglory's case, it should have filed an administrative case before the Supreme Court against the judge for her alleged defiance of the lawful order of the appellate court.[43]

C. *Colmenar v. Colmenar*[44]

After petitioner Frank Colmenar learned that his other relatives were extrajudicially settling the estate of the properties of his father Francisco and

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[40] *Id.* at 10.
[41] *Id.* at 11.
[42] *Id.*
[43] *Id.*
[44] G.R. 252467, June 21, 2021.

selling them to third parties without his knowledge and consent, the former filed a complaint for the declaration of nullity of the deeds of extrajudicial settlement of estate and the deeds of sale on September 11, 2018.

Respondent Property Company of Friends ("ProFriends"), the buyer of one of the subject properties, invoked as affirmative defense the lack of cause of action. In the meantime, the 2019 Amendments to the 1997 Rules of Civil Procedure ("2019 Amendments") took effect on May 1, 2020.

On May 22, 2020, RTC Assisting Judge Jean Desuasido-Gill dismissed Frank's complaint as against ProFriends and two other respondents on the ground of failure to state a cause of action against them. Citing Section 12, Rule 8 of the 2019 Amendments, the Order stated, among others, that "*the Court shall motu proprio resolve the affirmative defense if claim* [*sic*] *allegedly states no cause of action, among others. The Court marries the cases status with the new provision.*"[45]

Because Frank could not file a motion for reconsideration under Section 12, Rule 15 of the 2019 Amendments, petitioner directly sought relief from the Supreme Court. Frank argues that although procedural rules may be applied to actions already pending prior to their effectivity, the 2019 Amendments expressly proscribe their application to pending actions when "*in the opinion of the court, their application would not be feasible or would work injustice, in which case the procedure under which cases were filed shall govern.*"[46]

The issue before the Court was whether or not the lower courts erred in applying the 2019 Amendments in resolving the affirmative defenses of the respondent real estate companies.

The Supreme Court ruled in the affirmative and explained that, as Rule 144 is worded, the 2019 Amendments shall govern not only cases filed after their effectivity on May 1, 2020, but also all pending cases already commenced before that date, except to the extent that in the opinion of the court, their application would not be feasible or would work injustice. For cases falling under the exception, the procedure under which they were filed shall govern.[47]

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[45] *Id.* at 5.
[46] *Id.* at 8.
[47] *Id.* at 13.

In this case, it commenced with the filing of the complaint on September 11, 2018 and remained pending when the 2019 Amendments took effect.[48]

Judge Gill applied Section 12, Rule 8 of the 2019 Amendments when she supposedly resolved *motu proprio* the affirmative defense raised by ProFriends, in its answer filed in December 2018, that the complaint failed to state a cause of action. However, the Supreme Court noted that the 30-day period within which the affirmative defense may be resolved *motu proprio*[49] had long expired when Judge Gill issued the Order on May 22, 2020.

Judge Gill should have, therefore, desisted from applying the 2019 Amendments, specifically, Section 12, Rule 8 thereof, because when she did, the same was no longer feasible.[50]

More importantly, Judge Gill ignored the injustice caused by the application of the 2019 Amendments to the case. As a consequence, Frank lost his substantial right to be heard on the common affirmative defense of respondents and his right to seek a reconsideration of the order of dismissal under the 1997 Revised Rules on Civil Procedure.[51]

D. *Dominguez v. Bank of Commerce*[52]

Respondent Carmelo Africa, Jr., together with his brothers, engaged the legal services of petitioner Atty. Aristotle Dominguez in order to prevent the Bank of Commerce ("BOC") from taking possession of their family homes in Marikina, Antipolo, and Quezon City.[53]

BOC filed a petition for cancellation of adverse claim on the transfer of certificate of titles involving two of the family homes. Carmelo and his spouse Elizabeth opposed this through Atty. Dominguez. During the hearing, BOC manifested that there might be a settlement between the parties to which respondent-spouses Africa did not interpose any objections. Atty. Dominguez filed before the trial court a Request for Admission of the aforesaid allegations. A month later, Atty. Dominguez manifested that he

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[48] *Id.*

[49] *Id.*

[50] *Id.* at 14.

[51] *Id.*

[52] [Hereinafter "*Dominguez*"], G.R. No. 225207, Sept. 29, 2021.

[53] *Id.* at 2. This pinpoint citation refers to the copy of this decision uploaded to the Supreme Court website.

was no longer representing respondent-spouses Africa as oppositors in the petition for cancellation of adverse claim. Atty. Dominguez thereafter filed a Motion to Fix Attorney's Fees and to Approve Charging (Attorney's) Lien with Motion for Production of Compromise Agreement (Motion to Fix Attorney's Fees).[54]

The trial court denied the motions filed by Atty. Dominguez and held that said motions should be made once the judgment has been rendered or before the execution of the judgment. Until then, Atty. Dominguez has no personality to appear in the case. On reconsideration, Atty. Dominguez asserted that a Compromise Agreement was entered into between BOC and respondent-spouses Africa, even if such was denied by the parties during trial. He likewise interposed his right to be compensated for his legal services that resulted in the decrease of the redemption price and for preventing BOC from taking possession of the properties. The trial court, however, denied reconsideration.[55]

Atty. Dominguez filed a petition for *certiorari* before the appellate court and argued that the proper remedy for him is to claim attorney's fees in the same case where he rendered his service and acted as counsel rather than through an independent action, in order to avoid multiplicity of suits.[56] The appellate court dismissed the petition. It held that trial courts cannot adjudicate money claims in petitions for cancellation of adverse claim and are limited to the determination of the propriety of canceling an adverse claim. Citing *Aquino v. Casabar*,[57] the appellate court ratiocinated that the claim for attorney's fees may be held in abeyance until the main case has become final. Atty. Dominguez filed a motion for reconsideration, but such was denied by the appellate court.[58]

The Court held that in a petition for cancellation of adverse claim, trial courts, may at the same time, hear matters regarding claims for attorney's fees and charging of lien in observance of the policy against multiplicity of suits. Even in cases for the determination of just compensation,[59] settlement

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[54] *Id.* at 2–3.
[55] *Id.* at 3–4.
[56] *Id.* at 4.
[57] G.R. No. 191470, 748 SCRA 181, Jan. 26, 2015.
[58] *Dominguez*, *supra* note 52, at 4–5.
[59] *Aquino v. Casabar*, *supra* note 57.

of intestate estate,[60] foreclosure of mortgage[61], and in probate of a will,[62] the Court had recognized and permitted the counsel to interpose his or her claim for attorney's fees and lien. In *Palanca v. Pecson*,[63] the Court *En Banc* upheld the rule against multiplicity of suits to justify its holding that probate courts may pass upon a petition to determine attorney's fees.[64]

Hence, a lawyer may either choose to record and enforce his or her attorney's fees and lien in a petition for cancellation of adverse claim or opt to file an entirely separate action for this purpose.[65]

E. *Titan Dragon Properties Corp. v. Veloso-Galenzoga*[66]

This case differentiates in broad strokes the remedies of annulment of judgment and *certiorari*. Petitioner Titan Dragon Properties Corporation ("Titan Dragon") is the owner of a parcel of land in New Manila, Quezon City. Through its then-President Antonio Lao, it sold the subject property to respondent Marlina Veloso-Galenzoga. Under the deed of sale, petitioner corporation will shoulder the payment of capital gains tax and the documentary stamp tax.[67]

Respondent Galenzoga alleged that despite repeated demands to Lao, petitioner corporation failed to deliver possession of the property and to pay the necessary capital gains tax and documentary stamp tax. This prompted respondent to file a complaint for specific performance. The case was raffled to Branch 95 of the Regional Trial Court of Quezon City.[68]

Two weeks after, the respondent filed a petition for mandamus. The case was raffled to Branch 76 of the Regional Trial Court of Quezon City. Respondent Galenzoga alleged the same facts as with her petition for specific performance with the exception that the transfer of certificate of title of the

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[60] Heirs and/or Estate of Siapian v. Intestate Estate of Mackay, G.R. No. 184799, 629 SCRA 753, Sept. 1, 2010.

[61] Bacolod Murcia Milling Co., Inc. v. Henares, 107 Phil. 560 (1960).

[62] *Palanca v. Pecson*, 94 Phil. 419 (1954).

[63] *Id.*

[64] *Id.* at 423.

[65] *Dominguez*, *supra* note 52, at 8.

[66] [Hereinafter "*Titan Dragon Properties Corp.*"], G.R. No. 246088, Apr. 28, 2021.

[67] *Id.* at 2. This pinpoint citation refers to the copy of this decision uploaded to the Supreme Court website.

[68] *Id.* at 2–3.

subject property was cancelled, resulting into two new derivative titles in the name of petitioner corporation. Claiming the presence of fraud, as the owner's duplicate certificate of the transfer of certificate of title was in her possession, she sought to compel the Register of Deeds of Quezon City to annul and cancel said derivative titles and reinstate the original transfer of certificate of title.[69]

The corresponding summonses were issued for both proceedings. The sheriff's return for the specific performance case showed that the deputy sheriff made attempts to serve the summons at the 6th Floor, PBCom Building, Ayala Avenue, Makati. *First*, on 16 April 2015, when the deputy sheriff was informed by the administrative assistant of the building that petitioner company does not hold office at the 6th Floor. He verified the same and found that the entire floor is being occupied by PBCom bank. *Second*, the deputy sheriff went back to the same address but the building manager of PBCom informed him that petitioner Titan Dragon was not holding office at the 6th Floor thereof. This prompted respondent Galenzoga to file a motion to serve summons to petitioner corporation by substituted service (publication) which Branch 95 granted.[70]

In the mandamus case, the Sheriff's Return stated that the summons was served at the 6th Floor of PBCom Building, Ayala Avenue, through a certain Jona Agustin, a front desk representative, who refused to sign the acknowledgment. Nonetheless, Branch 76 declared that summons was properly served. The mandamus case was submitted for decision on 16 June 2015 upon failure of petitioner Titan Dragon to file its answer. On the same day, Branch 76 issued a decision in favor of respondent Galenzoga.[71]

Petitioner Titan Dragon filed a motion for reconsideration in the mandamus case. It argued that: (1) the summons was improperly served to a receptionist, who is neither an employee of the corporation nor among those who could be validly served with summons; and (2) the decision in the mandamus case expanded the reliefs sought by respondent Galenzoga.

Branch 76 granted reconsideration. It held that the court did not acquire jurisdiction as the summons was invalidly served. Moreover, the mandamus case was decided without respondent Galenzoga moving to declare petitioner corporation in default, and without the subsequent

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[69] *Id.* at 3.
[70] *Id.* at 3.
[71] *Id.* at 4.

presentation of respondent's evidence *ex parte*. The court likewise took note of the precipitate haste in deciding the case, it having been decided on the same day it was submitted for decision.[72]

In the specific performance case, petitioner Titan Dragon was declared in default. Subsequently, Branch 95 rendered a decision in favor of the respondent. In the interim, respondent Galenzoga filed an omnibus motion alleging that petitioner caused the subdivision of the property fraudulently. Respondent Galenzoga prayed that the derivative titles be cancelled, the original transfer of certificate of title be reinstated and that a new title be issued in her name. The decision in the specific performance case attained finality. Branch 95 also granted partly the omnibus motion. It issued a writ of execution to implement the decision and the order partly granting the omnibus motion.[73]

Petitioner Titan Dragon filed a petition for *certiorari* under Rule 65 with the appellate court seeking to set aside the decision, the orders and the writ of execution issued by Branch 95 in the specific performance case.[74] It alleged that it made the correct resort via a Rule 65 petition since a petition for annulment of judgment, the remedy being alleged by the respondent as the appropriate remedy, is not a plain, speedy and adequate remedy against judgments rendered or proceedings had without valid service of summons.[75]

The appellate court dismissed the petition for being the wrong mode of appeal. It held that the speedy and adequate remedy is a petition for annulment of judgment under Rule 47 considering that the basis of the petition is the lack of jurisdiction over the person of petitioner Titan Dragon.[76]

The Court did not agree with the appellate court. It first discussed that void judgments produce no legal and binding effect and they are deemed inexistent. They may result from lack of jurisdiction over the subject matter or a lack of jurisdiction over the person of either of the parties. They may also arise if they were rendered with grave abuse of discretion amounting to lack or excess of jurisdiction. Such void judgments may be attacked directly

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[72] *Id.* at 5.
[73] *Id.* at 6.
[74] *Id.* at 9.
[75] *Id.* at 11.
[76] *Id.*

via a petition for annulment of judgment under Rule 47, and via a petition for *certiorari* under Rule 65 of the Rules, respectively.[77]

While it is true that defective service of summons negates a court's jurisdiction and is thus recognized as a ground for an action for annulment of judgment, this does not preclude the remedy of *certiorari*. In cases where a tribunal's action is tainted with grave abuse of discretion, Rule 65 provides the remedy of a special civil action for *certiorari* to nullify the act. After all, the concept of lack of jurisdiction as a ground to annul a judgment does not embrace abuse of discretion.[78]

In this case, petitioner Titan Dragon does not only assail the lack of jurisdiction over its person on account of an invalid service of summons, but also the grave abuse of discretion allegedly committed by Branch 95 in patently disregarding the Rules of Court and applicable jurisprudence in issuing the decision and writ of execution in the specific performance case.[79]

Citing *Matanguihan v. Tengco*,[80] the Court explained that *certiorari* is proper where the proceeding in the trial court has gone so far out of hand as to require prompt action. An action for an annulment of judgment is not a plain, speedy and adequate remedy.

Even assuming for the sake of argument that a petition for annulment of judgment is the proper remedy, the appellate court is not barred from taking cognizance of the petition. In *Heirs of So v. Obliosca*,[81] the Court ruled that the higher interests of justice and equity demand that procedural norms be brushed aside. Given the realities obtaining in this case, the liberal construction of the Rules will promote and secure a just determination of the parties' causes of action against each other. Petitioner Titan Dragon has shown more than enough valid and justifiable reasons why a relaxation of the Rules should be accounted in its favor.[82]

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[77] *Id.* at 14.
[78] *Id.*
[79] *Id.* at 15.
[80] G.R. No. 27781, 95 SCRA 478, Jan. 28, 1980.
[81] G.R. No. 147082, 542 SCRA 406, Jan. 28, 2008.
[82] *Titan Dragon Properties Corp.*, *supra* note 66, at 16.

III. CRIMINAL PROCEDURE

A. *Tieng v. Palacio-Alaras*[83]

This case clarifies that the venue and jurisdictional requirements for libel under Article 360 of the Revised Penal Code (RPC), as amended by Republic Act (RA) No. 4363, are applicable not just to "written defamations" but also to radio and television broadcasts.

William Tieng charged radio broadcaster Hilarion Henares Jr. with libel before the Regional Trial Court (RTC) of Parañaque City.[84] However, Henares moved to quash the Information on the ground that the RTC of Parañaque has no jurisdiction over the offense charged because the information failed to allege that Tieng actually resided in Parañaque City at the time the allegedly libelous matters were printed and first published.[85]

Henares argued that the venue and jurisdictional requirements for an action pertaining to "written defamations"—that it shall be filed with the trial court of the province or city where the libelous article was printed and first published or where the offended party resided at the time of the commission of the offense—should also apply to radio and television broadcasts. According to him, such broadcasts are permanent means of publication.[86] He also contended that written defamation also refers to "libel by means of writing or similar means" as defined under Article 355, RPC, which encompasses libel committed by means of writing, printing, radio, photograph, theatrical exhibition, cinematographic or any similar means.[87]

Tieng countered that the language used by Rep. Inocencio V. Ferrer, in his explanatory note of the bill that became RA 4363, which amended Article 360 to its current form, exclusively referred to "written defamations." He also points to judicially recognized distinctions between radio and print media. In other words, according to both the text and legislative intent, Article 360 applies exclusively to written libel.[88]

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[83] [Hereinafter "*Tieng*"], G.R. No. 164845, Mar. 25, 2022.

[84] *Id.* at 3. This pinpoint citation refers to the copy of this decision uploaded to the Supreme Court website.

[85] *Id.* at 4.

[86] *Id.*

[87] *Id.* at 5.

[88] *Id.* at 6.

The issue before the Court was whether a charge of defamation through radio broadcasts must be instituted in accordance with Article 360 of the RPC. The Supreme Court ruled in the affirmative.

Venue in criminal cases not only determines where the action must be instituted, but also the court that has jurisdiction to try and hear the case.[89] Thus, under Section 15, Rule 110 of the Rules of Court, the general rule is that the criminal action shall be instituted and tried in the court of the municipality or territory where the offense was committed or where any of its essential ingredients occurred.[90]

In libel cases, it must be noted that under Article 360 of the RPC, there are two (2) rules as to venue: (i) Whether the offended party is a public official or a private person, the criminal action may be filed in the trial court of the province or city where the libelous article is printed and first published; and (ii) If the offended party is a private individual, the criminal action may also be filed in the trial court of the province where he actually resided at the time of the commission of the offense.

However, the third paragraph of Article 360 does not explicitly mention "libel by other similar means" and only refers to "written defamations as provided found in this chapter."

Nonetheless, the Court in *Bocobo vs. Estanislao*[91] previously ruled that such an interpretation would run counter to the provision's main purpose, that is, to prevent inconvenience or even harassment to those unfortunate enough to be accused of libel, if any municipal court where there was publication could be chosen by the complainant as the venue.

Thus, if the defamatory statement is alleged to have been made through radio, Article 360 of the RPC and not Section 15, Rule 110 of the Rules of Court is what governs in determining the venue for the action. A contrary ruling would go against the clear policy of RA 4363 and permit the private offended party to institute the action in any court located within the radio station's coverage area, even at the very edge of it. Thus, hypothetically, if the radio station was in Makati City but its coverage area reached as far

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[89] *Id.* at 16.
[90] *Id.* at 17.
[91] G.R. No. 30458, 72 SCRA 520, Aug. 31, 1976.

south as Laguna, the offended party could inconvenience the accused and institute the action as far as Laguna.[92]

Regarding defamation through radio, the Court deemed it proper to define the term "where the libelous article is printed and first published." "Publication" in defamation cases simply refers to the act of communicating a defamatory statement to a third party. Radio broadcasts and newspapers' common denominator is that the source of transmission is almost always identifiable: Either a printing press or a radio station. In such cases, Article 360 will require that the criminal action be instituted in the court of the locality where the printing press or radio station is situated. And even in instances where the private offended party has no way of knowing (and proving) where the radio signal was transmitting from, Article 360 still provides for another venue: The place where he or she resided at the time the offense was committed.[93]

In situations where there is defamation through television broadcasts, admittedly, neither Article 355 nor Article, 360 explicitly refers to "television". However, under the *ejusdem generis* rule, it may be deduced, by good and necessary consequence, that defamations through television broadcasts be treated in the same manner as radio broadcasts for purposes of Article 360.[94]

In summary, in libel through radio and television broadcasts, the private offended may file the criminal or civil action in the RTC of the province or city of the radio or television station where the broadcast of the libelous statement originated; or his actual residence at the time the radio or televised broadcast was made.

With the information failing to allege that Henares's radio station was located in Parañaque City or that the offended party Tieng resided there, the Court held that it did not vest jurisdiction to the RTC of Parañaque City. Thus, the information was quashed and the case was dismissed for lack of jurisdiction.[95]

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[92] *Tieng*, *supra* note 83, at 20.
[93] *Id.* at 21.
[94] *Id.* at 22.
[95] *Id.* at 25, 29.